

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

RECEIVED

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MELLONESE BRASCOMB,	)	DEBRA P. HACKETT, CLK
	)	U.S. DISTRICT COURT
Plaintiff,	)	MIDDLE DISTRICT ALA
	)	
v.	)	Civil Action Number: CV-_____
	)	
AMERICAN BANKERS INSURANCE	)	2:06cv1015-MEF
COMPANY OF FLORIDA, et al.,	)	
	)	
Defendants.	)	

**MOTION TO COMPEL ARBITRATION AND STAY**

Defendant American Bankers Insurance Company of Florida (“American Bankers” or “Defendant”) hereby moves this Honorable Court, pursuant to 9 U.S.C. § 4, to enter an Order directing the plaintiff, Mellonese Brascomb (“Plaintiff”), to submit any and all claims she may have against Defendant to arbitration. In the event the Court grants this Motion to Compel Arbitration, Defendant also moves the Court to stay the litigation pending the outcome of arbitration. As grounds for this motion, Defendant shows as follows:

1. Plaintiff’s claims arise out of Mellonese Brascomb’s purchase of a comprehensive manufactured home policy from American Bankers on or about June 15, 2004. See Policy and Declaration Page, attached as **Exhibit A**.
2. The policy at issue contains an arbitration clause, which states as follows:  
Any and all disputes, controversies or claims of any kind and

SCANNED

nature between YOU and US arising out of or in any way related to the validity, enforceability, interpretation, performance or breach of any provision of this policy, including this arbitration provision, and upon which a settlement has not been reached by YOU and US, shall be resolved, exclusively, by arbitration in accordance with the Federal Arbitration Act (9 U.S.C. Section 1 Et. Seq.)

YOU shall appoint one arbitrator. WE shall appoint an arbitrator. The two arbitrators appointed shall together pick a third arbitrator. Any decision of the arbitrators shall be by majority vote. In all other respects, the rules and procedures of the American Association's Commercial Arbitration Rules shall govern the arbitration proceeding except to the extent that such rules and procedures conflict with the Federal Arbitration Act. Arbitration shall be held in the city and state where YOU reside, unless otherwise agreed, in writing, by the parties. In no event shall the arbitrators grant any relief not available in the courts of the state where the policy is issued. Judgment upon the arbitration award shall be entered in a court of general jurisdiction in the state where YOU reside. Appeals may be taken from the arbitrators' decision only accordance with the Federal Arbitration Act.

YOU and We understand that:

- a. Discovery in an arbitration proceeding may be more limited than and different from that in a court proceeding;
- b. The arbitrators are not required to state the basis of their decision or to issue any findings of fact; and
- c. YOUR and OUR right to appeal or to seek modification of the rulings by the arbitrators may be limited.

**Exhibit A**, at pp. 4-5.

3. On or about October 5, 2006, plaintiff filed this action against American Bankers arising out of the above-referenced insurance contract. See Complaint, attached as **Exhibit B**. Plaintiff's Complaint does not specify the precise claims she is making against American Bankers. However, based on the Complaint, American Bankers assumes that plaintiff may be

alleging claims of breach of contract, bad faith, negligence and/or wantonness in connection with the insurance policy issued to her by American Bankers. See generally Complaint.

4. Plaintiff's claims against American Bankers specifically arises out of, relate to and are based or otherwise dependent upon the manufactured home policy issued by American Bankers. American Bankers is therefore entitled to enforce the arbitration agreement contained in that insurance contract. See Woodsmen of the World Life Insurance Society v. Harris, 740 So. 2d 362 (Ala. 1999).

5. The insurance transaction that brought about the arbitration agreement in this case undoubtedly involves interstate commerce for purposes of the FAA. See Allied-Bruce Terminiz Cos. v. Dobson, 513 U.S. 265 (1995)(defining the reach of the FAA as extending to the limits of Congress' commerce clause power). American Bankers, the company which issued the insurance about which plaintiff complains, is a Florida corporation. See Clayton v. Woodmen of the World Life Ins. Society, 981 F. Supp. 1447, 1449-50 (M.D. Ala. 1997) (life insurance agreement with fraternal benefit society incorporated in another state evidenced a transaction involving interstate commerce under the FAA). Considering the United States Supreme Court's broad interpretation of interstate commerce in defining the reach of the FAA, this fact alone is sufficient to mandate enforcement of the terms of the arbitration agreement in this case.

**WHEREFORE**, Defendant American Bankers Insurance Company of Florida respectfully requests that this Honorable Court enter an Order compelling the plaintiff to submit

her claims against Defendant to binding arbitration. Defendant further requests this Court to stay the litigation pending the outcome of arbitration.



One of the Attorneys for American Bankers  
Insurance Company of Florida

OF COUNSEL:

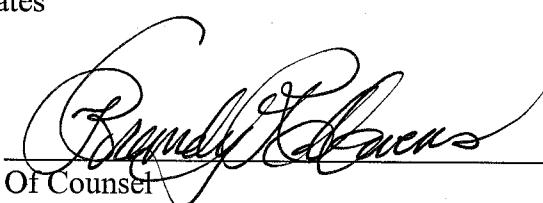
Michael L. Bell (BEL007)  
S. Andrew Kelly (KEL051)  
Brandy R. Owens (OWE033)  
Lightfoot, Franklin & White, L.L.C.  
The Clark Building  
400 North 20<sup>th</sup> Street  
Birmingham, Alabama 35203  
(205) 581-0700  
(205) 581-0799 (facsimile)

**CERTIFICATE OF SERVICE**

This is to certify that on this 10<sup>th</sup> day of November, 2006, a true and correct copy of the foregoing was served on counsel of record by depositing a copy of same in the United States Mail, postage prepaid, properly addressed to

Samuel L Adams, Esq.  
Post Office Box 1690  
Dothan, Alabama 36302

Rufus R. Smith, Jr., Esq.  
Rufus R. Smith, Jr. & Associates  
Post Office Drawer 6629  
Dothan, Alabama 36302

  
\_\_\_\_\_  
Of Counsel

GM7830793603

10/14/06

AL XAO 0005

AREA ID:

AMERICAN BANKERS INSURANCE COMPANY  
OF FLORIDA  
11221 Quail Road Drive, Miami, FL 33157-6500

NEW DECLARATION \* \* \* \* EFFECTIVE 06/15/04 AT  
12:01 A.M. STANDARD TIME

POLICY NUMBER	FROM	TO	POLICY TYPE	AGENCY	PR
GM78307936	06/15/04	06/15/05	COMPREHENSIVE MANUFACTURED HOME	0593100	00
YOU AS NAME OF INSURED AND ADDRESS					AGENT/ACCOUNT
LOAN GM78307936 MELLONESE BRASCOMB 1081 COUNTY RD 4408 BRUNDIDGE AL 36010					GREEN TREE INS AGCY OF AL INC. 345 ST PETER ST., 7TH FLOOR ST PAUL MN 55102

A2083-064  
THE MANUFACTURED HOME COVERED BY THIS POLICY IS LOCATED AT THE ABOVE ADDRESS.

RATING INFORMATION - MANUFACTURED HOME BUILT IN 1998, LENGTH 70, WIDTH 28,  
MODEL BUCCANEER, SERIAL NUMBER 01981367AB DOUBLE, OWNER OCCUPIED,  
YOUR MANUFACTURED HOME IS IN TERRITORY 03.

BELOW ARE THE COVERAGES PROVIDED TO YOU.

COVERAGE	LIMIT OF LIABILITY	PREMIUM
COMPREHENSIVE MOBILE HOME COV.	\$52,061 LESS DED. **	\$827.00

ADDITIONAL PREMIUMS OR CREDITS	INCL
CATASTROPHE FEE	

TOTAL POLICY PREMIUM	-----	\$827.00
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FORMS AND ENDORSEMENTS - M3282 08/97\*, AB4830PC 03/96\*, AJ8036EC 12/00\*,  
AB4846EC 03/96\*.

AS LIENHOLDER  
GREEN TREE-AL LLC,  
ITS AFFILIATES AND/OR ASSIGNS  
PO BOX 6158  
RAPID CITY SD 57709

LOAN NUMBER GM78307936

#### DESCRIPTION OF ADDITIONAL COVERAGES AND/OR DEDUCTIBLES

##### LENDERS CHARGE

** EARTHQUAKE DEDUCTIBLE IS	\$5,206
** FLOOD DEDUCTIBLE IS	\$500
** HAIL DEDUCTIBLE IS	\$500
** WIND DEDUCTIBLE IS	\$500
** ALL OTHER DEDUCTIBLES	\$250

EXHIBIT

tables

A

\* THIS IS PAGE ONE OF YOUR POLICY. READ YOUR POLICY FOR COVERAGE DETAILS. \*

**AMERICAN BANKERS INSURANCE COMPANY**

**OF FLORIDA**

11222 Quail Roost Drive, Miami, FL 33167-6666

Attn: Mobilehome Services

**DISCLOSURE FORM**

**(For lender-placed mobile home insurance policies in Alabama)**

Please be advised that your lender has recently purchased an insurance policy from American Bankers Insurance Company of Florida to protect your lender's interests in your manufactured or mobile home. The policy was purchased because you failed to maintain insurance that was required under your loan agreement. If you can provide proof that you had an insurance policy which protects your lender's interests in your mobile home at the time that your lender placed this insurance with American Bankers, you may be able to obtain a full refund of the premiums you have been charged. You have the right to obtain other insurance from any other company of your choice at any time, and you may cancel this insurance by obtaining other coverage. We urge you to contact an insurance agent and obtain insurance that is appropriate for your individual needs.

Please read the policy and related papers carefully. The policy describes the coverages it provides, its cost, and its term. Your lender may add the premium for this insurance to the loan balance you owe on your mobile home and include an appropriate portion of the premium in the periodic payments you make on that loan. As a result, the periodic payments you make on your mobile home loan may increase, and you may be paying interest on the premiums.

This insurance only protects your lender's interest in your mobile home and is not intended to protect your interests. It does not provide coverage for contents, liability, unattached structures, or other coverages that you might want. This insurance is not General Homeowners Insurance. In addition, the insurance may not be sufficient to cover the total loss of your mobile home, and in the event of a total loss, you may owe a portion or all of your loan to your lender despite the existence of this insurance. Your lender may be receiving compensation or a commission for placing this insurance with American Bankers Insurance Company of Florida.

Please consult an insurance agent or call your lender or American Bankers if you have any questions concerning the insurance your lender has placed with American Bankers Insurance Company of Florida.

**AMERICAN BANKERS INSURANCE COMPANY**

**OF FLORIDA**

11222 Quail Rock Drive, Miami, FL 33157-4598 (305) 283-2244

**COMPREHENSIVE MANUFACTURED HOME PROGRAM  
MANDATORY AMENDATORY ENDORSEMENT  
ALABAMA**

**THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.**

Under **EXCLUSIONS**, item 10 is amended to include the following:

However, if YOU commit an act with the intent to cause a loss, WE will provide coverage to an innocent insured victim of domestic abuse, as defined in the " Domestic Abuse Insurance Protection Act ", to the extent of that person's interest in the property when the damage is proximately related to and in furtherance of domestic abuse.

Under **CONDITIONS**, item 11, **OUR Right to Recover from Others**, is amended to include the following:

YOU may waive in writing before a loss all rights of recovery against any person. However, this waiver does not apply if an insured is an innocent victim of domestic violence abuse as defined in the "Domestic Abuse Insurance Protection Act". In this case, WE shall be subrogated to the rights of the innocent insured claimant to recover for any losses WE paid for property damages.

In all other cases, if YOU do not waive in writing before a loss all rights of recovery against any person, WE may require an assignments of rights of recovery for a loss to the extent that payment is made by US.

If an assignment is sought, YOU must sign and deliver all related papers and cooperate with US.

**ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.**

**AMERICAN BANKERS INSURANCE COMPANY**

**OF FLORIDA**

11222 Quail Roost Drive, Miami, FL 33157-8596 (305) 253-2244

Attn: Mobilehome and RV Services

**COMPREHENSIVE MANUFACTURED HOME PROGRAM  
FLOOD COVERAGE ENDORSEMENT**

In return for the premium charged, the coverage provided by this policy covers loss **YOU** incur caused by **FLOOD**.

**"FLOOD"** means:

A general, temporary condition of partial or complete covering of normally dry land areas from:

1. The overflow of inland tidal water; or
2. The unusual and rapid build-up or run-off of surface water from any source; or
3. Mudslides or mudflows which are caused by the build-up of water on or under the ground; or
4. The collapse or sinking of land along the shore of a body of water as a result of erosion or undermining caused by waves or currents of water exceeding the normal levels, which results in a **FLOOD** as defined above.

**FLOOD**, as defined above, is at least as broad as that offered by the Standard Flood Insurance Policy.

Exclusion 3. of **YOUR** policy is deleted and replaced by the following:

"3. Resulting from or increased by water backing up through sewers or drains or water below the surface of the ground."

**ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.**

# **COMPREHENSIVE**

# **MANUFACTURED HOME POLICY**

**AMERICAN BANKERS INSURANCE COMPANY**  
**OF FLORIDA**  
11222 Quail Road Drive, Miami, FL 33167-6596 (305) 253-2244  
(A STOCK COMPANY)

**AMERICAN BANKERS INSURANCE COMPANY**

OF FLORIDA  
11222 Quail Roost Drive, Miami, FL 33157-6596 (305) 253-2244

## COMPREHENSIVE MANUFACTURED HOME POLICY

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**THIS POLICY DOES NOT PROVIDE PERSONAL LIABILITY OR PERSONAL PROPERTY INSURANCE.****INSURING AGREEMENT**

WE will provide the insurance described in this policy in return for the paid premium and in compliance with all applicable provisions of this policy.

WE provide insurance only for covered losses which occur during the policy period and for coverages shown on the Declarations Page.

**DEFINITIONS**

**"YOU", "YOUR", "YOURS"** means the person named on the Declarations Page and that person's husband or wife who lives in the same MANUFACTURED HOME as the named insured.

**"WE", "US", "OUR"**, always means American Bankers Insurance Company of Florida.

**"BUSINESS"** means:

1. Any full or part time trade, profession or occupation;
2. The rental or holding for rental of premises by YOU;
3. Occasional rental or holding for rental of the residence premises for use as a dwelling;
4. Rental or holding for rental of part of the residence premises as a private garage, office, school or studio;
5. Providing home day care services to a person(s) other than insureds and receiving monetary or other compensation for such services.

**"ACTUAL CASH VALUE"** means the amount it would cost to repair or replace damaged property with material of like kind and quality, less allowance for physical deterioration and depreciation, including obsolescence.

**"FLOOD"** means a general, temporary condition of partial or complete covering of normally dry land areas from:

1. The overflow of inland tidal water; or
2. The unusual and rapid build-up or run-off of surface water from any source; or
3. Mudslides or mudflows which are caused by the build-up of water on or under the ground; or
4. The collapse or sinking of land along the shore of a body of water as a result of erosion or undermining caused by waves or currents of water exceeding the normal levels, which results in a FLOOD as defined above.

FLOOD, as defined above, is at least as broad as that offered by the Standard Flood Insurance Policy.

**"IN TRANSIT"** means the period of time during which the leveling jacks or blocks are removed and all utilities are

disconnected for the purpose of transporting the MANUFACTURED HOME from one location to another. This applies whether or not the MANUFACTURED HOME is momentarily in motion and whether on a public roadway or otherwise.

**"MANUFACTURED HOME"** means one, two or more factory fabricated, transportable units, including attached structures and their replacements which remain part of the MANUFACTURED HOME.

**MANUFACTURED HOME** includes:

1. Parts, equipment and accessories as described in the certificate of origin, manufacturer's invoice, or sales contract and replacements of these items which remain part of the MANUFACTURED HOME;
2. The MANUFACTURED HOME tie-down anchoring systems;

The MANUFACTURED HOME must be:

1. Constructed to be towed on a chassis or other similar means of transportation.
2. Connected to utilities; and
3. Designed with or without a permanent foundation for year round living.

**COMPREHENSIVE MANUFACTURED HOME COVERAGE**

WE will pay for direct, sudden and accidental loss of, or damage to YOUR MANUFACTURED HOME, as described on the Declarations Page, except:

1. Collision or upset while the MANUFACTURED HOME is IN TRANSIT; or
2. Those causes of loss listed in the Exclusions.

**EXCLUSIONS**

WE will not provide payment for loss or damage:

1. Due and confined to wear and tear, freezing, neglect, mechanical or structural, or electrical breakdown or failure, or manufacturer's defect.
2. Caused by continuous or repeated seepage of water or steam from within a plumbing, heating or air conditioning system or from within a household appliance which occurs over a period of time.
3. Resulting from or increased by FLOOD, water backing up through sewers or drains, or water below the surface of the ground.

4. Caused by enforcement of any governmental requirement regulating construction, confiscation, repair, demolition, sale, occupancy or relocation of YOUR MANUFACTURED HOME.
5. If YOUR MANUFACTURED HOME is being used for any illegal trade or illegal business.
6. Due and confined to leakage from rain, sleet or snow or its resulting damage whether or not wind driven. This includes roof leakage.  
However, this exclusion does not apply if a covered peril causes an opening in the roof or to the exterior of the MANUFACTURED HOME.
7. If YOUR MANUFACTURED HOME is used in any way or at any time for BUSINESS or professional purposes.
8. Caused by birds, rodents, insects or animals.
9. Due to settling, cracking, shrinking, earth movement, bulging or expansion of pavements, patios, foundations, of YOUR MANUFACTURED HOME or any of its parts.
10. If YOU intentionally cause damage to or destruction of YOUR MANUFACTURED HOME.
11. If YOU intentionally gave US materially false information with intent to deceive in order to obtain this policy or in YOUR presentation of claim. This includes conversion and concealment by YOU.
12. Due to nuclear action which means nuclear reaction, radiation or radioactive contamination. Direct loss by fire resulting from nuclear action is insured.
13. Due to war, hostile or warlike action in time of peace or war whether declared or not declared.
14. To tires, wheels and axles, unless damaged by fire while attached to YOUR MANUFACTURED HOME or stolen from inside YOUR MANUFACTURED HOME.
15. By vandalism to the MANUFACTURED HOME if the MANUFACTURED HOME is not lived in or is vacant for more than 30 consecutive days before the loss.
16. Resulting from vandalism and malicious mischief caused by a tenant resident.
17. Due to latent defects, marring, deterioration, vermin or inherent vice, rust, mold, wet or dry rot, contamination, smoke from agricultural smudging or industrial operations.
18. To YOUR personal property.
19. To property of others or injury to any person for which YOU are liable.
20. To the MANUFACTURED HOME tie-down anchoring systems if caused by or resulting from rust, corrosion or faulty installation.

21. While the MANUFACTURED HOME is IN TRANSIT.

## CONDITIONS

### 1. What YOU Must do in Case of Loss

- a. Any theft, robbery, burglary or vandalism loss must be reported to the police within 24 hours after YOU discover the loss. YOU must submit a copy of the police report when filing a claim;
- b. When YOU have a loss, YOU or someone on YOUR behalf must notify US promptly. Provide US with:
  1. YOUR name and policy number;
  2. The time, place and how the loss happened;
  3. The names and addresses of witnesses; and
  4. All other pertinent facts;
- c. Send US promptly any legal papers received relating to any claim;
- d. If YOU have a loss, YOU must protect YOUR MANUFACTURED HOME from any further damage. If YOU fail to do so, any further damages will not be covered under this policy;
- e. YOU will be required to cooperate with US in OUR effort to investigate the loss and settle the claim. If YOU fail to cooperate, WE have the right to deny YOU coverage in this policy;
- f. If WE need any other information to investigate the loss, WE will ask for it. WE may require this information in writing. WE may require that YOU file with US a notarized statement of loss within 90 days after the loss or damage;
- g. YOU may be required to show US the damaged property as often as WE reasonably require, and submit to examination under oath;
- h. YOU will not, except at YOUR own cost, voluntarily make any payment, assume any obligation or incur expense;
- i. When YOU have a loss covered under this policy, WE will make settlement within 60 days after WE receive an acceptable proof of loss from YOU and the amount of loss is determined as provided in this policy.

### 2. OUR Payment Methods

#### a. Total Loss

In the event of a total loss of YOUR MANUFACTURED HOME, WE will pay the limit of liability for YOUR MANUFACTURED HOME as shown on the Declarations Page of YOUR policy.

b. Partial Loss

In the case of partial loss, WE will pay the actual amount of the loss, less any applicable deductible; up to the limit of liability as shown on the Declarations Page of YOUR policy.

c. OUR Payment Methods for Specific Types of Loss

1. Hail

The amount WE will pay YOU for loss or damage from hail depends on the type of loss or damage it causes.

- a. Hail can cause structural damage, which is the actual penetration of the exterior surface or the cracking or breaking of support materials. When this type of loss, or damage occurs, WE will pay YOU the cost of repairing or replacing the damaged portion of the property.
- b. Hail often dents the exterior surface of a MANUFACTURED HOME. Since there is no structural damage, this will in no way affect the utility of the MANUFACTURED HOME. The amount WE pay for this will be the difference between the ACTUAL CASH VALUE of YOUR property immediately before the loss and its ACTUAL CASH VALUE immediately after the loss.

2. Pair and Sets

In case of a covered loss to part of a pair, set, series of objects, pieces or panels, either interior or exterior, WE may:

- a. Repair or replace any part to restore the pair or set to its value before the loss; or
- b. Pay the difference between ACTUAL CASH value of the pair or set before and after the loss.

WE cannot guarantee the availability of parts or replacements. WE will not be obligated to repair or replace, the entire pair, set or series of objects, piece or panel when a part is lost or damaged. Matching existing or adjacent parts, pieces or panels will be attempted but not required.

3. Tie-Downs

WE will pay the replacement cost or repair cost, whichever is less, for covered loss or damage to YOUR MANUFACTURED HOME tie-down anchoring system.

OUR Payment Methods are subject to the deductibles and limits of liability as shown on the Declarations Page and elsewhere in this policy for the specific type of loss involved.

When the lienholder is named on the Declarations Page, OUR payment method will recognize the lienholder's interest in YOUR property. Both YOUR name and YOUR lienholder's name will appear on OUR payment check.

3. Deductible

Most losses and damages are subject to a deductible amount as shown on the Declarations Page or elsewhere in this policy.

When YOUR loss is equal to or less than the deductible amount, YOU pay it all. When YOUR loss is more than the deductible shown, YOU pay the deductible amount and WE pay the balance of the loss up to the limit of liability provided to YOU in this policy subject to all terms and conditions.

This policy may have different deductibles for different coverages. Only one deductible amount will be applied to a loss resulting from one occurrence. If the deductible amounts are not equal, the highest deductible involved in the loss will apply.

4. Other Insurance

This policy is excess coverage if there is other insurance coverage it will pay first. After the other policy has paid up to its limit, OUR policy will provide coverage up to its amount, but not exceeding the remainder of YOUR loss.

5. Arbitration

Any and all disputes, controversies or claims of any kind and nature between YOU and US arising out of or in any way related to the validity, enforceability, interpretation, performance or breach of any provision of this policy, including this arbitration provision, and upon which a settlement has not been reached by YOU and US, shall be resolved, exclusively, by arbitration in accordance with the Federal Arbitration Act (9 U.S.C. Section 1 Et Seq.).

YOU shall appoint one arbitrator. WE shall appoint an arbitrator. The two arbitrators appointed shall together pick a third arbitrator. Any decision of the arbitrators shall be by majority vote. In all other respects, the rules and procedures of the American Association's Commercial Arbitration Rules shall govern the arbitration proceeding except to the extent that such rules and procedures conflict with the Federal Arbitration Act. Arbitration shall be held in the city and state where YOU reside, unless otherwise agreed, in writing, by the parties. In no event shall the arbitrators grant any relief not available in the courts of the state where the policy is issued. Judgment upon the arbitration award shall be entered in a court of general jurisdiction in the state where YOU reside. Appeals may be taken from the arbitrators' decision only in accordance with the Federal Arbitration Act.

YOU and WE understand that:

- a. Discovery in an arbitration proceeding may be more limited than and different from that in a court proceeding;
- b. The arbitrators are not required to state the basis of their decision or to issue any findings of fact; and
- c. YOUR and OUR right to appeal or to seek modification of rulings by the arbitrators may be limited.

#### 6. Automatic Reinstatement of Coverage

Any damage to YOUR property will reduce the amount of coverage available by the amount of the damage. YOUR coverage will return to the limit of liability shown on the Declarations Page upon completion of repairs or replacements.

#### 7. Bankruptcy

If YOU become bankrupt or insolvent, WE will still be obligated by this policy.

#### 8. Cancellation or Nonrenewal

YOU can cancel YOUR policy by mailing to US a written notice telling US the future date when the cancellation is to be effective. If a lienholder is named on the Declarations Page, WE will mail written notice to the lienholder ten days prior to cancellation of the lienholder's interest in this policy.

The effective date of cancellation stated in the "Notice of Cancellation" shall become the end of the policy period. If this policy is cancelled, YOU may be entitled to a premium refund. If so, WE will send YOU the refund. If there is a lienholder, its interest will be recognized in any refund due. However, making or offsetting to make the refund is not a condition of cancellation.

WE can cancel this policy for any reason during the first 60 days. WE can cancel this policy after the first 60 days only if YOU or YOUR representative:

- a. Conceal, omit, or misrepresent any material facts or circumstances; or
- b. Make a false or fraudulent claim; or
- c. Have knowledge of any change that substantially increases the risk assumed by US without notifying US and paying any required premium for the increased risk; or
- d. Have not paid the premium.

WE will mail a cancellation notice to YOU at least 30 days (10 days if YOU have not paid the premium or if in the first 60 days of coverage) before this policy is cancelled.

WE will mail a cancellation notice to YOUR last address known to US. WE will also give the same notice to YOUR lienholder.

Mailing notice will be sufficient proof of notice. Delivery of the notice by YOU or US will be equivalent to mailing. The policy period will end on the cancellation date and time stated in the notice.

YOUR lienholder can cancel this policy if YOUR MANUFACTURED HOME has been repossessed or the lienholder has otherwise acquired ownership of the MANUFACTURED HOME. If there is any refund of premium due YOU, WE will mail it to YOU with YOUR cancellation notice or as soon as possible after WE mail the notice.

WE agree to offer to renew YOUR policy unless WE mail to YOU, at least 45 days before the "To" date shown on the Declarations Page, written notice of OUR intention not to renew this policy. With YOUR payment of the premium, WE will renew this policy.

If this policy is cancelled, regardless of whether it is by YOU, US or the lienholder, the return premium will be calculated pro rata. Pro-rated cancellation means that WE keep premium only for the period of time YOU were insured.

#### 9. Changes in YOUR Policy

If any provision of this policy is in conflict with YOUR state's or the Federal Government's laws or regulations at the time YOUR policy is written, it is automatically changed to conform to them. WE will automatically give YOU the benefit of any extension or broadening of this policy, if the change does not require additional premium.

When YOUR policy is renewed, continued or extended, WE will furnish YOU any form revisions applicable to YOUR coverage.

The only other way this policy can be changed is if WE change it in writing, which will be made a part of this policy. Any change in YOUR premium will be made at that time.

#### 10. Lienholder's Interest

If YOU borrowed money to buy YOUR MANUFACTURED HOME, the person or business that loaned YOU the money is called the lienholder. Lienholder means the person, firm, association, corporation, or other legal entity named as the lienholder on the Declarations Page. The designation of a lienholder is considered to be an acknowledgment by YOU that the lienholder has a legal interest in the MANUFACTURED HOME due to an installment sales contract; or other security agreement. YOUR lienholder may require YOU to name it on the Declarations Page as a separate insured party, for any insurable interest it may have.

When a lienholder is named on the Declarations Page, OUR Payment Method will recognize the lienholder's

interest in YOUR MANUFACTURED HOME. If WE elect to settle YOUR loss or damage in money, both YOUR name and YOUR lienholder's name will appear on OUR payment check. If YOU have paid off YOUR lienholder, please tell US so that the lienholder's name may be removed from the policy.

If YOUR interest in the MANUFACTURED HOME is terminated, OUR Payment Method will recognize only the lienholder's interest. No change in title or ownership of YOUR MANUFACTURED HOME or any negligent acts of YOURS will cancel the lienholder's interest in this policy.

YOU or the lienholder must let US know of any change of ownership or any increase in hazard which comes to YOUR or the lienholder's knowledge. If an increase in hazard requires an additional premium, YOU must pay the additional premium.

If YOU fail to pay any premium due under this policy, YOUR lienholder may be requested to pay that premium.

If YOU fail to give US proof of loss within the required 90 days, the lienholder is given an additional 30 days to notify US of the loss.

#### 11. OUR Right to Recover from Others

After WE have made payment under this policy WE have the right to recover the payment from anyone who may be held responsible. YOU will be required to sign any papers and do whatever is necessary to transfer this right to US.

Neither YOU nor anyone WE insure in this policy has the right to do anything to prejudice OUR rights.

#### 12. Location

YOUR policy provides coverage for the MANUFACTURED HOME anywhere within the United States. There is no coverage under this policy while YOUR MANUFACTURED HOME is IN TRANSIT between permanent locations. Coverage restarts once YOUR MANUFACTURED HOME is properly blocked, leveled and hooked up to utilities. YOU must provide US with YOUR new address if YOU move YOUR MANUFACTURED HOME.

#### 13. Transfer of This Policy

Interest in this policy may not be transferred without OUR written consent. If the policyholder named on the Declarations Page or the spouse of the policyholder residing in the same household dies, the policy will cover:

- a. Any surviving member of the deceased's household who was covered under this policy at the time of death;
- b. The legal representative of the deceased person while acting within the scope of duties of a legal representative; and
- c. Any person having proper custody of the insured property until a legal representative is appointed.

This policy is signed at the Home Office of American Bankers Insurance Company of Florida, Miami, Florida, by its President and Secretary. It is countersigned on the Declarations Page by OUR authorized representative(s), if required.

*Arthur W. Wagner*  
SECRETARY

*Jay Robert Fuchs*  
PRESIDENT

#### IMPORTANT NOTICE TO REPORT A CLAIM CALL 1-800-358-0600

Always Have Your Policy Number Available  
When Reporting A Claim

**ARSON PREVENTION PROGRAM**

American Bankers Insurance Company of Florida will pay  
\$1,000.00  
for information leading to the conviction of any person for  
arson to a dwelling or vehicle insured by the Company.

IN THE CIRCUIT COURT OF PIKE COUNTY, ALABAMA

MELLONESE BRASCOMB,

PLAINTIFF,

VS.

American Bankers Insurance Company of Florida; and Fictitious Party Defendant A, whether singular or plural, being those individuals and/or that entity or those entities, whether a partnership, corporation, limited liability corporation, insurance company or other legal entity, who or which insured the Plaintiff's 1998 Buccaneer mobile home for loss on March 26, 2005, including whether singular or plural the predecessor or successor organization of any of the above and heretofore referenced fictitious Party Defendants. Plaintiff avers that the identities of the fictitious Party Defendants is otherwise unknown to the Plaintiff at this time or, if their names are Known to the Plaintiff at this time, their Identity as proper Party Defendants is not Known to the Plaintiff at this time; but their true names will be substituted by amendment to the Complaint when the aforesaid lacking knowledge is ascertained.

DEFENDANTS.

COMPLAINT

COMES NOW the Plaintiff in the above styled cause, Mellonese Brascomb, and as basis for the relief hereinafter demanded, says as follows:

to-whit:

EXHIBIT

tabbles\*

B

PARTIES

1. Plaintiff, Mellonese Brascomb, is an individual and at all times relevant to the allegations made in this Complaint, being a citizen and resident of the State of Alabama and is of legal age.

2. Defendant, *American Bankers Insurance Company of Florida* is an insurance corporation having its principal place of business at 11222 Quail Roost Drive, Miami, Florida 33157-6596. At all times relevant to the allegations made in this Complaint said Defendant insured the Plaintiff's 1998 Buccaneer mobile home.

3. The Defendant, fictitious Party Defendant A, whether singular or plural, are those individuals and/or that entity or those entities, whether a partnership, corporation, limited liability corporation, insurance company or other legal entity, who or which insured the Plaintiff's 1998 Buccaneer mobile home for loss on March 26, 2005, including whether singular or plural the predecessor or successor organization of any of the above and heretofore referenced fictitious Party Defendants. Plaintiff avers that the identities of the fictitious Party Defendants is otherwise unknown to the Plaintiff at this time or, if their names are known to the Plaintiff at this time, their identity as proper Party Defendants is not known to the Plaintiff at this time, but their true names will be substituted by amendment to the Complaint when the aforesaid lacking knowledge is ascertained.

COUNT 1

4. On or about the 26<sup>th</sup> day of March, 2005, Defendants, *American Bankers Insurance Company of Florida* and fictitious Party Defendant A insured the Plaintiff's 1998 Buccaneer mobile home located at 1081 County Road 4408, Brundidge, Pike County, Alabama against loss or injury by storm, wind or tornado and other perils in a policy of insurance; **POLICY NUMBER GM7830793603**. Said policy of insurance was in full force and effect on March 26, 2005.

5. On and prior to March 26, 2005, the Plaintiff, Mellonese Brascomb, had

purchased for valuable consideration the above referenced insurance policy from the Defendants for the 1998 Buccaneer mobile home located at 1081 County Road 4403, Brundidge, Pike County, Alabama. Said policy of insurance bearing policy number GM7830793603, provided insurance coverage for Plaintiff's dwelling. Pursuant to the terms and conditions of said policy of insurance, Plaintiff, Mellonese Brascomb, paid the premiums required to keep said policy in full force and effect.

6. On March 26, 2005, the 1998 Buccaneer mobile home insured by the policy issued to the Plaintiff by the Defendants was severely damaged by storm, wind, tornado and/or other insured perils of which the Defendants have had notice.

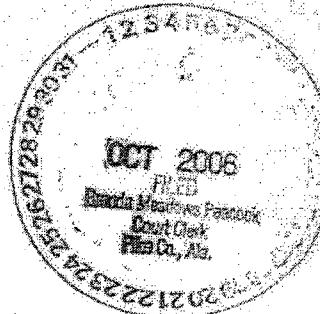
7. As a proximate result of the foregoing, the Plaintiff suffered severe damage to her insured property [1998 Buccaneer mobile home], a reduction in value, and suffers and continues to suffer mental anguish and emotional distress.

WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally, including fictitious Party Defendants in a sum to be determined by a jury which will fairly and adequately compensate the Plaintiff for injuries and damages sustained, plus costs.

*[Signature]*  
Samuel L. Adams ADA017  
Attorney for Plaintiff  
P.O. Box 1690  
Dothan, Alabama 36302  
(334) 792-0965  
(334) 794-6889 (FAX)

**OF COUNSEL:**

Rufus R. Smith, Jr., Esq.  
Rufus R. Smith, Jr. & Associates  
Post Office Drawer 6629  
Dothan, AL 36302



**JURY DEMAND**

Pursuant to the Alabama Rules of Civil Procedure, Plaintiff demands a trial by jury.



Samuel L. Adams

**Request for Certified Mail Service by Clerk**

Plaintiff hereby requests service by Certified Mail pursuant to Rule 4 (c) of the Alabama

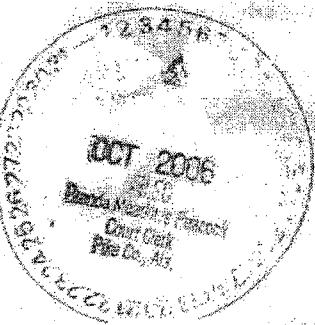
Rules of Civil Procedure.



Samuel L. Adams

**Please serve Defendants via Certified Mail with return receipt requested at:**

American Bankers Insurance Company of Florida  
11222 Quail Roost Drive  
Miami, Florida 33157-6596



State of Alabama  
Case No. 06-11-257

MC-30 Rev 6/88

**SUMMONS  
CIVIL**

**IN THE** **CIRCUIT** **COURT OF** **PIKE** **COUNTY**

**Plaintiff** **MELLONESE BRASCOMB** **v. Defendant** **American Bankers Insurance Co. of Florida**

**NOTICE TO** **American Bankers Insurance Co. of Florida, 11222 Quail Roost Dr. Miami, Florida 33157-8596**

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE PLAINTIFF OR PLAINTIFF'S ATTORNEY.

ADDRESS IS **P O Box 1690, 163 SOUTH OATES, DOOTHAN, AL 36302**

WHOSE **Sandra L. Adams**

THIS ANSWER MUST BE MAILED OR DELIVERED WITHIN **30** DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

TO ANY SHERIFF OR ANY PERSON AUTHORIZED by the Alabama Rules of Civil Procedure:

You are hereby commanded to serve this summons and a copy of the complaint in this action upon the defendant.

Service by certified mail of this summons is initiated upon the written request of pursuant to the Alabama Rules of Civil Procedure.

Date **10-6-06** **Breath M. Bracok** By: **Janice**  
Clerk/Register